

Senate Study Bill 3073 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED BOARD OF PHARMACY
BILL)

A BILL FOR

1 An Act relating to controlled substances and precursor
2 substances, including provisions relating to the
3 registration of persons who manufacture, distribute,
4 or dispense controlled substances, adding substances
5 to the controlled substance schedules, expanding the
6 list of precursor substances for which reporting is
7 required, providing penalties, and including effective date
8 provisions.
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

REGISTRATION AND DISCIPLINE

Section 1. Section 124.302, subsections 1 and 4, Code 2018, are amended to read as follows:

1. Every person who manufactures, distributes, or dispenses any controlled substance ~~within~~ in this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, shall obtain and maintain a ~~biennial~~ registration issued by the board in accordance with its rules.

4. A separate registration is required for each principal place of business or professional practice where the applicant manufactures, distributes, ~~or~~ dispenses, or conducts research with controlled substances.

Sec. 2. Section 124.304, subsection 1, Code 2018, is amended to read as follows:

1. The board may suspend, revoke, or restrict a registration under section 124.303 to manufacture, distribute, or dispense a controlled substance, or otherwise discipline a registrant, upon a finding that any of the following apply to the registrant:

a. The registrant has furnished false or fraudulent material information in any application filed under this chapter or any other chapter which applies to the registrant or the registrant's practice.

b. The registrant has had the registrant's federal registration to manufacture, distribute, ~~or~~ dispense, or conduct research with controlled substances suspended, revoked, or restricted.

c. The registrant has been convicted of a public offense under any state or federal law relating to any controlled substance. For the purpose of this section only, a conviction shall include a plea of guilty, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court which forfeiture has not been vacated, or a finding

1 of guilt in a criminal action even though the entry of the
2 judgment or sentence has been withheld and the individual
3 placed on probation.

4 *d.* The registrant has committed such acts as would
5 render the registrant's registration under [section 124.303](#)
6 inconsistent with the public interest as determined under that
7 section.

8 *e.* If the registrant is a licensed health care professional,
9 the registrant has had the registrant's professional license
10 revoked or suspended or has been otherwise disciplined in a
11 way that restricts the registrant's authority to handle or
12 prescribe controlled substances.

13 Sec. 3. Section 124.304, subsections 2, 3, and 4, Code 2018,
14 are amended to read as follows:

15 2. The board may limit revocation, ~~or~~ suspension, or
16 restriction of a registration or discipline of a registrant
17 to the particular controlled substance with respect to
18 which grounds for revocation, ~~or~~ suspension, restriction, or
19 discipline exist.

20 3. If the board suspends, ~~or~~ revokes, or restricts a
21 registration, or otherwise disciplines a registrant, all
22 controlled substances owned or possessed by the registrant
23 at the time of the suspension, revocation, restriction,
24 or discipline, or at the time of the effective date of the
25 revocation order, may be placed under seal. No disposition
26 may be made of substances under seal until the time for taking
27 an appeal has elapsed or until all appeals have been concluded
28 unless a court, upon application, orders the sale of perishable
29 substances and the deposit of the proceeds of the sale with the
30 court. Upon ~~a revocation~~ an order becoming final, all such
31 controlled substances may be forfeited to the state.

32 4. The board shall promptly notify the bureau and
33 the department of all orders suspending, ~~or~~ revoking, or
34 restricting a registration and all forfeitures of controlled
35 substances, or otherwise disciplining a registrant.

1 Sec. 4. Section 124.305, Code 2018, is amended to read as
2 follows:

3 **124.305 ~~Order to show cause~~ Contested case proceedings.**

4 1. ~~Before denying, Prior to suspending, restricting, or~~
5 ~~revoking a registration, or refusing a renewal of registration,~~
6 ~~or otherwise disciplining a registrant, the board shall serve~~
7 ~~upon the applicant or registrant an order to show cause why~~
8 ~~registration should not be denied, revoked, or suspended, or~~
9 ~~why the renewal should not be refused. The order to show~~
10 ~~cause shall contain a statement of the basis therefor and~~
11 ~~shall call upon the applicant or registrant to appear before~~
12 ~~the board at a time and place not less than thirty days after~~
13 ~~the date of service of the order, but in the case of a denial~~
14 ~~or renewal of registration the show cause order shall be~~
15 ~~served not later than thirty days before the expiration of~~
16 ~~the registration a notice in accordance with section 17A.12,~~
17 subsection 1. The proceedings shall comply with the contested
18 case procedures in accordance with chapter 17A. These The
19 proceedings shall also be conducted without regard to any
20 criminal prosecution or other proceeding. Proceedings to
21 refuse renewal of registration shall not abate the existing
22 registration which shall remain in effect pending the outcome
23 of the administrative hearing.

24 2. ~~The board, without an order to show cause, may suspend~~
25 ~~any registration while simultaneously with the institution~~
26 ~~of proceedings under section 124.304, or where renewal of~~
27 ~~registration is refused, pursuing emergency adjudicative~~
28 proceedings in accordance with section 17A.18A, if it finds
29 that there is an imminent danger to the public health or
30 safety which warrants this action. The suspension shall
31 continue in effect until the conclusion of the proceedings,
32 including judicial review thereof, under the provisions of
33 the Iowa administrative procedure Act, chapter 17A, unless
34 sooner withdrawn by the board or dissolved by the order of the
35 district court or an appellate court.

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DIVISION II

ADDITIONAL CONTROLLED SUBSTANCES AND PRECURSOR SUBSTANCES

Sec. 5. Section 124.204, subsection 9, Code 2018, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *t.* Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: 5F-ADB; 5F-MDMB-PINACA.

NEW PARAGRAPH. *u.* Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers. Other name: 5F-AMB.

NEW PARAGRAPH. *v.* N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: 5F-APINACA, 5F-AKB48.

NEW PARAGRAPH. *w.* N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts, and salts of isomers. Other name: ADB-FUBINACA.

NEW PARAGRAPH. *x.* Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers. Other names: MDMB-CHMICA, MMB-CHMINACA

NEW PARAGRAPH. *y.* Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate, its optical, positional, and geometric isomers, salts, and salts of isomers. Other name: MDMB-FUBINACA.

NEW PARAGRAPH. *z.* N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers. Other names: 4-fluoroisobutyryl fentanyl, para-fluoroisobutyryl fentanyl.

NEW PARAGRAPH. *aa.* N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl) propionamide. Other names: ortho-

1 fluorofentanyl or 2-fluorofentanyl.

2 NEW PARAGRAPH. *ab.* N-(1-phenethylpiperidin-4-yl)-N-
3 phenyltetrahydrofuran-2-carboxamide. Other name:
4 tetrahydrofuranyl fentanyl.

5 NEW PARAGRAPH. *ac.* 2-methoxy-N-(1-phenethylpiperidin-4-
6 yl)-N-phenylacetamide. Other name: methoxyacetyl fentanyl.

7 NEW PARAGRAPH. *ad.* N-(1-phenethylpiperidin-4-yl)-N-
8 phenylacrylamide. Other names: acryl fentanyl or
9 acryloylfentanyl.

10 NEW PARAGRAPH. *ae.* Methyl 2-(1-(4-fluorobenzyl)-1H-
11 indazole-3-carboxamido)-3-methylbutanoate, its optical,
12 positional, and geometric isomers, salts, and salts of isomers.
13 Other names: FUB-AMB, MMB-FUBINACA, AMB-FUBINACA.

14 Sec. 6. Section 124.206, subsection 7, Code 2018, is amended
15 by adding the following new paragraph:

16 NEW PARAGRAPH. *c.* Dronabinol [(-)-delta-9-trans-
17 tetrahydrocannabinol] in an oral solution in a drug product
18 approved for marketing by the United States food and drug
19 administration.

20 Sec. 7. Section 124B.2, subsection 1, Code 2018, is amended
21 by adding the following new paragraph:

22 NEW PARAGRAPH. *ab.* Alpha-phenylacetoacetonitrile and its
23 salts, optical isomers, and salts of optical isomers. Other
24 name: APAAN.

25 Sec. 8. EFFECTIVE DATE. This division of this Act, being
26 deemed of immediate importance, takes effect upon enactment.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This bill relates to controlled substances and precursor
31 substances including provisions relating to the registration
32 of persons who manufacture, distribute, or dispense controlled
33 substances, adding substances to the controlled substance
34 schedules, and expanding the list of precursor substances for
35 which reporting is required.

1 DIVISION I. The bill provides that a person who
2 manufactures, distributes, or dispenses any controlled
3 substance in this state or who proposes to engage in such
4 activities in this state (registrant), obtain and maintain
5 a registration issued by the board of pharmacy. Currently,
6 a registrant is required to obtain and maintain a biennial
7 registration issued by the board of pharmacy.

8 The bill requires a separate registration for each principal
9 place of business of a registrant, when the registrant is
10 conducting research with controlled substances. Currently,
11 a separate registration is required for each principal place
12 of business where a registrant manufactures, distributes, or
13 dispenses controlled substances.

14 The bill permits the board of pharmacy to take disciplinary
15 action against a registrant who manufactures, distributes,
16 or dispenses any controlled substance within this state,
17 without restricting, suspending, or revoking the registration.
18 Currently, the board of pharmacy does not have the option to
19 take disciplinary action against a registrant.

20 The bill provides that the board of pharmacy may discipline
21 a registrant when the registrant has furnished false or
22 fraudulent material information in any application under any
23 Code chapter which applies to the registrant. Currently, the
24 board of pharmacy may take action against a registrant when
25 the registrant has furnished false or fraudulent material
26 information in any application under only Code chapter 124
27 (controlled substances).

28 The bill provides that the board of pharmacy may limit the
29 restriction of a registrant's registration or discipline of a
30 registrant to a particular controlled substance when grounds
31 exist for such restriction or discipline. Currently, the
32 board of pharmacy may impose such limits only when revoking or
33 suspending a registrant's registration.

34 Under the bill, if the board of pharmacy restricts a
35 registrant's registration or disciplines a registrant, all

1 controlled substances owned or possessed by the registrant at
2 the time of the restriction or at the time of the effective
3 date of the order may be place under seal. Currently, if
4 the board of pharmacy suspends or revokes a registrant's
5 registration, all controlled substances owned or possessed by
6 the registrant at the time of the suspension or revocation or
7 at the time of the effective date of the order may be placed
8 under seal.

9 The bill requires the board of pharmacy to notify the
10 federal bureau of narcotics and dangerous drugs, United States
11 department of justice, or its successor agency, of all orders
12 restricting a registrant's registration or disciplining a
13 registrant. Under current law, the board shall notify the
14 federal agency when suspending or revoking the registration
15 of a registrant including all forfeitures of controlled
16 substances.

17 If the board of pharmacy decides to suspend, restrict, or
18 revoke a registrant's registration or discipline a registrant,
19 the bill requires the board to serve upon the registrant a
20 notice in accordance with Code section 17A.12. Currently, the
21 board of pharmacy institutes such proceedings by serving an
22 order to show cause why the registrant should not be denied,
23 revoked, or suspended, or why the registration should not be
24 refused.

25 The bill permits the board of pharmacy to suspend a
26 registrant's registration while simultaneously pursuing an
27 emergency adjudicative proceeding in accordance with Code
28 section 17A.18A, if the board finds there is an immediate
29 danger to the public health, safety, or welfare. Currently,
30 the board of pharmacy may suspend a registrant's registration
31 without an order to show cause, if the board finds there is an
32 imminent danger to the public health or safety.

33 DIVISION II. The bill classifies nine substances as
34 schedule I controlled substances and one substance as a
35 schedule II controlled substance in conformance with scheduling

1 actions taken by the United States department of justice, drug
2 enforcement administration.

3 For the nine schedule I controlled substances added in Code
4 section 124.204(9) under the bill, the penalties under Code
5 section 124.401(1)(a),(b), and (c) range, depending upon the
6 amount of the controlled substance involved, from a class "B"
7 felony punishable by confinement for not more than 50 years
8 and a fine of not more than \$1 million, to a class "C" felony
9 punishable by confinement of not more than 10 years and a fine
10 of at least \$1,000 and not more than \$50,000. If a person
11 unlawfully possesses any such controlled substance in violation
12 of Code section 124.401(5), the person commits a serious
13 misdemeanor for a first offense. A serious misdemeanor is
14 punishable by confinement for no more than one year and a fine
15 of at least \$315 but not more than \$1,875.

16 For the schedule II controlled substance added under Code
17 section 124.206, it is a class "C" felony pursuant to Code
18 section 124.401(1)(c)(9) for any unauthorized person to violate
19 a provision of Code section 124.401(1) involving a schedule II
20 controlled substance. A class "C" felony for this particular
21 offense is punishable by confinement for no more than 10 years
22 and a fine of at least \$1,000 but not more than \$50,000. If a
23 person unlawfully possesses a schedule II controlled substance
24 in violation of Code section 124.401(5), the person commits a
25 serious misdemeanor for a first offense. A serious misdemeanor
26 is punishable by confinement for no more than one year and a
27 fine of at least \$315 but not more than \$1,875.

28 The bill also classifies a substance as a precursor
29 substance for purposes of certain reporting requirements. A
30 "precursor substance" is defined in Code section 124B.1 to
31 mean a substance which may be used as a precursor in the
32 illegal production of a controlled substance. A person who
33 sells, transfers, or otherwise furnishes a precursor substance
34 with knowledge or the intent that the recipient will use the
35 precursor substance to unlawfully manufacture a controlled

1 substance commits a class "C" felony under Code section
2 124B.9(1). A person who receives a precursor substance with
3 the intent that the substance be used unlawfully to manufacture
4 a controlled substance commits a class "C" felony under
5 Code section 124B.9(2). A class "C" felony is punishable by
6 confinement for no more than 10 years and a fine of at least
7 \$1,000 but not more than \$10,000.
8 This division takes effect upon enactment.